

**IN THE U.S. DISTRICT COURT FOR MARYLAND,
SOUTHERN DIVISION**

BEYOND SYSTEMS, INC.

Plaintiff

v.

WORLD AVENUE USA, LLC

successor by merger to NIUTECH, LLC.,

DBA "THE USEFUL," ET AL.

Defendants

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Case No. PJM 08 cv 0921

DECLARATION OF SHIRLEY FITZGERALD PURSUANT TO 28 U.S.C. § 1746

I, Shirley FitzGerald, state that:

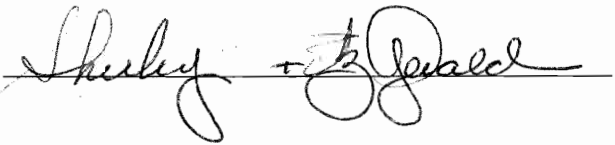
1. I am over 18 years of age and fully competent to testify to the facts set forth in this Declaration.
2. I live at 17 Greenfield Street. Lowell MA 01851.
3. My granddaughter Sarah FitzGerald Wagner has just turned six years old. There are no other Sarah FitzGerald's at 17 Greenfield Street. Lowell MA 01851.
4. On Friday, August 21, a man appeared at my front porch screen door with a box in his hands. Behind him was a UPS truck. He said I have a delivery for James Wagner. He said is James Wagner here. I said no. He did not identify himself.
5. He came on to the porch and put a battered cardboard box on a bench. At that time I believed he was with UPS. After he set the box down, he then turned to me and in a commanding voice demand "Who are you!?" and I replied "Shirley." He next turned to my granddaughter who was standing next to me and demanded "Who are you!?" Sarah

replied, "Sarah." He then turned to my husband and again demanded, "Who are you!?" and was told "Leonard."

6. It is a lie for him to claim I identified myself to a strange adult using my granddaughter's name. I never said such a thing nor would ever do such a thing.
7. It is a lie for that man to claim I said words to the effect that "I work for Hypertouch." I never said anything at all to that affect nor would I ever do such a thing. I am not nor have ever been an employee of Hypertouch.
8. It is a lie for that man to claim I said words to the effect that I was authorized to accept service for Hypertouch or for James Wagner.
9. After demanding our names, without further explanation he turned around and left. As he walked down the walkway he did not turn towards the UPS truck but got into a car right in front of the house. I realized he was not with UPS and my anxiety and concern grew.
10. While he sat in his car shuffling through some papers on the passenger seat I walked up to car window and asked: "Well who are you?" He answered, "I am a process server." I replied, "Well how do I know that you didn't just leave a bomb?" He laughed and said, "I didn't deliver a bomb." He never identified himself. He said, "I forgot my card, but here" and he tore a small strip of paper off with some law firm's name on it.
11. It is a lie for that man to claim I said "Get the f**k out of here!" That word, which the newspaper columnists call the "F-bomb," is not one that I use, ever. I am aghast that he claims that I used such language, much less that I would yell that down the sidewalk in front of all my neighbors.

I provide the following declaration I declare under penalty of perjury that the foregoing is true and correct.

Date: September 28, 2009 at Lowell, MA

By: A handwritten signature in cursive script, appearing to read "Shirley E. Gual", is written over a horizontal line.